

Homeless**Subject: News bulletin: follow on from Travellers' Times items****Date: Mon, 22 Apr 2002 22:52:03 GMT0BST****From: Rachel Morris <MorrisRC1@CARDIFF.AC.UK>****Reply-To: 'Traveller-Net' Network <TRAVELLER-NET@JISCMAIL.AC.UK>****To: TRAVELLER-NET@JISCMAIL.AC.UK**

Following below, A few news items that Lord Avebury has asked me to post, updates to issues raised in the last few issues of Travellers' Times. Sorry for the length and I hope it's not too 'legalese'. Any comments or suggestions would be appreciated:

1. Housing benefit. The calculation of benefit on county council sites differs from that on district and unitary authority-owned sites. The calculation of rents on the former means that there is often a shortfall in benefit which residents themselves must meet (i.e. the rent and benefit amounts are calculated separately and often the rent is more. Some counties therefore reduce the rent, and cut down maintenance accordingly, with predictable results). The Department for Social Security or Work and Pensions or whatever they're currently called has been looking at this issue for 15 MONTHS and, even if it comes up with something, has to refer any solutions to the Social Security Advisory Committee and local authority associations before putting any solutions into effect. We are also still waiting for confirmation as to whether county councils will be compensated for losses they are sustaining because they can't collect the full amount of rent owing from site residents whose housing benefits were reduced by a Rent Officer.

2. In Clarke v (1) Secretary of State for the Environment, Transport and the Regions (2) Tunbridge Wells Borough Council (9/10/01) QBD Administrative Court (Burton J), the Times, 9 November 2001, a planning inspector's decision to refuse a Gypsy permission to use his land to station a caravan for residential use was quashed because the inspector had not made clear whether he had taken account of the appellant's earlier refusal of an offer of conventional housing. It was held that (1) if C had been an 'ordinary' resident rather than an 'itinerant' traveller, the availability of suitable alternative accommodation would not have been taken into account against him in a similar planning application; and (2) it was impossible to gauge from the inspector's decision letter whether C's refusal of a council house was taken into account against him and, if so, to what degree. Burton J held that both the 'right to respect' in article 8 and the 'prohibition on discrimination' in article 14 of the European Convention on Human Rights would be infringed if the inspector could, in the case of a traditional Gypsy, take into account as 'suitable' alternative accommodation an offer of conventional housing which he refused to accept.

Currently local authorities have a discretion, where Travelling People are homeless under s175 of the Housing Act 1996 (having a mobile dwelling and nowhere lawful to place or live in it) to offer a pitch rather than a conventional house, but they are not obliged to do so. If the Clarke decision extends from planning to housing law then local authorities may have a de facto duty to provide sites. Lord Avebury asked the Government to comment on this point in a fine speech in the House of Lords on 15 January.

Lord Falconer has replied to this question. He has said that the Clarke case "is a planning, not a housing, case and does not impose such a duty ... it would not be appropriate to conclude from the

Clarke case that in housing cases it could be a breach of Articles 8 and 14 to refuse to provide accommodation for a Gypsy on a site. However, if there were circumstances in which a Gypsy's refusal to accept housing accommodation as such was held against them in some other context, that would be incorrect".

Lord Falconer also notes that the Homelessness Bill will come into statutory force in due course, and some provisions under it came into force immediately on Royal Assent being granted (26 February), including that homeless applicants can ask for a review of suitability of offered accommodation without having to risk that the homelessness duty will be brought to an end if the original decision is upheld.

Also, the Act will in future require that each local housing authority must carry out a review of homelessness in their district, and formulate a homelessness strategy based on the review. The strategy must set out a plan of action for preventing homelessness, ensuring that accommodation will be available for all who become homeless; and must address all groups within the district who are likely to experience homelessness.

Lord Falconer concedes that this would include 'Gypsies who are statutory homeless' but he adds "However, as a practical reality you will appreciate that not all the issues relating to Gypsies will come within the remit of such reviews or can be solved by proposals in homelessness strategies". Whatever that means.

He says they will make sure that Gypsies will be mentioned in guidance referring to the importance of regional approaches in this context.

3. The DTLR are supposed to be reviewing and improving the 'Good Practice Guide' to managing 'unauthorised camping', and researching the management and maintenance of public sites in England. Both projects seem to have come to a grinding halt; word on the street is that Home Secretary David Blunkett has taken a sudden interest in these matters and wants to do his own research before anything further is written for possible future publication. This doesn't sound good. If the Government are going to continue to treat people living roadside without proper accommodation or facilities as an issue of crime and disorder rather than homelessness, I want to know how they can justify that under the new positive duties they have placed on themselves - and all local and police authorities - to promote good race relations and equality of opportunity.

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